

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

MICHAEL THOMAS,

Plaintiff,

v.

CAUSE NO.: 2:22-CV-309-TLS-APR

CARROLL COUNTY, INDIANA,
CARROLL COUNTY SHERIFF'S OFFICE,
TOBIAS LEAZENBY, in his Individual
Capacity and Official Capacity as Sheriff of
Carroll County, Indiana, and TONY
LIGGETT, in his Individual Capacity and
Official Capacity as Sheriff of Carroll
County, Indiana,

Defendants.

OPINION AND ORDER

This matter is before the Court on a Stipulation of Dismissal with Prejudice as to Defendants Carroll County, Indiana, and Tobias Leazenby, in his Individual Capacity and Official Capacity as Sheriff of Carroll County, Indiana, Only [ECF No. 37], filed on June 9, 2023. Therein, the parties seek to dismiss “all claims alleged against Defendants Carroll County, Indiana, and Tobias Leazenby, in his Individual Capacity and Official Capacity as Sheriff of Carroll County, Indiana” under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), as well as against Defendant Tony Liggett, who has not yet responded to the Amended Complaint. Notably, Defendant Carroll County Sheriff's Office is not included in the stipulated dismissal.

On May 17, 2023, the parties filed a Joint Notice of Settlement Pursuant to Local Rule 16-1(g) [ECF No. 35] in which they represented to the Court that the Plaintiff and the

Defendants had reached an “anticipated settlement [which] will resolve the litigation, including all pending motions.”

Consequently, it is not clear whether the parties intend to dismiss all claims against all parties or whether they intend for the claims against Defendant Carroll County Sheriff’s Office to survive.

To the extent that the parties wish to preserve the claims against Defendant Carroll County Sheriff’s Office, the Seventh Circuit Court of Appeals has held that the proper procedure for dismissal of individual parties or claims is by the amendment of pleadings under Federal Rule of Civil Procedure 15(a) and not by dismissal under Federal Rule of Civil Procedure 41(a). *Taylor v. Brown*, 787 F.3d 851, 857–58, 858 n.9 (7th Cir. 2015) (explaining that “Rule 15(a) allows a plaintiff to amend his complaint—including by adding or dropping parties and claims—as a matter of right in some situations and by court order in others” and reminding district court to use Rule 15(a) rather than Rule 41(a) for dismissal of individual claims); *see also* 6 Fed. Prac. & Proc. Civ. § 1479 (3d ed.).

If the parties intend for the Stipulation of Dismissal to resolve all claims against all parties to this litigation, including Defendant Carroll County Sheriff’s Office, the parties must file another stipulation of dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) that includes that Defendant.

Accordingly, the Court STRIKES the Stipulation of Dismissal with Prejudice as to Defendants Carroll County, Indiana, and Tobias Leazenby, in his Individual Capacity and Official Capacity as Sheriff of Carroll County, Indiana, Only [ECF No. 37]. The Court SETS a deadline of June 29, 2023, for either (1) the Plaintiff to file a second amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(2), to drop Defendants Carroll County,

Indiana, Tobias Leazenby, and Tony Liggett and to proceed only against the Carroll County Sheriff's Office or (2) the parties to file a stipulation of dismissal that includes Defendant Carroll County Sheriff's Office.

SO ORDERED on June 16, 2023.

s/ Theresa L. Springmann

JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT